

1 **BRILES_M.taxgar3**

2 LEONARDO M. RAPADAS
United States Attorney
3 MIKEL W. SCHWAB
Assistant U.S. Attorney
4 JESSICA F. CRUZ
Assistant U.S. Attorney
5 Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
6 Hagåtña, Guam 96910
TEL: (671) 472-7332
7 FAX: (671) 472-7215

8 Attorney's for United States of America

FILED
DISTRICT COURT OF GUAM

MAY 07 2008

JEANNE G. QUINATA
Clerk of Court

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF GUAM

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 vs.

15 MICHAEL CORY BRILES,

16 Defendant,

17
18 DEPARTMENT OF REVENUE
AND TAXATION,
19 GOVERNMENT OF GUAM,

20 Garnishee.
21

MAGISTRATE CASE NO. 05-00037

**WRIT OF GARNISHMENT;
INSTRUCTIONS TO THE
GARNISHEE**

22
23 GREETINGS TO: Department of Revenue & Taxation
Attn.: Artemio B. Ilagan, Director
24 P.O. Box 23607
25 GMF, Guam 96921

26 An application for a Writ of Garnishment against the property of Defendant-Judgment
27 Debtor MICHAEL CORY BRILES, Social Security Number XXX-XX-4541, whose last known
28 address is: Santa Rita, Guam 96915, (hereinafter "Debtor"), has been filed with this Court. An

ORIGINAL

1 amended judgment in a criminal case was filed against the Debtor on November 14, 2005 and the
2 amount due totals \$785.00, as of April 29, 2008. (\$750.00 restitution + \$35.00 special
3 assessment fee).

4 You are required by law to answer in writing, under oath, and within ten (10), after
5 receipt of this writ, the following information: (1) Whether or not you have in your custody,
6 control or possession, any property or money owned by the Debtor, including nonexempt,
7 disposable earnings; (2) A description of such property and the value of the property; (3) A
8 description of any previous garnishment to which such property is subject and the extent to
9 which any remaining property is not exempt; and (4) The amount of the debt you anticipate
10 owing to the Debtor in the future and whether the period for payment will be weekly or another
11 specified period.

12 **You are also required by law to withhold and retain any property in which the**
13 **Debtor has a substantial nonexempt interest for which you are or may become indebted to**
14 **the Debtor pending further order of the Court.**

15 You must file the original written answer to this writ within ten (10) days of your receipt
16 of this writ with the United States District Clerk at: District Court of Guam, 4th Floor,
17 U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam 96910. YOU MUST ANSWER
18 THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR CUSTODY, CONTROL OR
19 POSSESSION ANY PROPERTY OF THE DEFENDANT. Additionally, you are required by
20 law to serve a copy of this answer upon the debtor at: Santa Rita, Guam 96915 and upon the
21 United States Attorney at: U.S. Attorney's Office, Attn.: Mikel W. Schwab, Assistant U.S.
22 Attorney, and Jessica F. Cruz, Assistant U.S. Attorney, Sirena Plaza, Suite 500, 108 Hernan
23 Cortez Avenue, Hagåtña, Guam 96910.

24 Under the law, there is property which is exempt from this writ of Garnishment. Property
25 which is exempt and which is not subject to this order is listed on the attached Claim for
26 Exemption form.

27 //

28 //

1 If you fail to answer this writ or withhold property in accordance with this writ, the
2 United States of America may petition the Court for an order requiring you to appear before the
3 Court to answer the writ and to so withhold the property before the appearance date. If you fail
4 to appear or do appear and fail to show good cause why you failed to comply with this writ, the
5 Court may enter a judgment against you for the value of the Debtor's non-exempt interest in such
6 property (including nonexempt disposable earnings). The Court may also award a reasonable
7 attorney's fee to the United States and against you if the writ is not answered within the time
8 specified herein and if the United States files a petition requiring you to appear. It is unlawful to
9 pay or deliver to the Debtor any item attached by this writ.

10 DATED May 7, 2008, Hagåtña, Guam.

11
12
13 JEANNE G. QUINATA
Clerk of Court

14
15 Marilyn B. Alcon
16 Deputy Clerk
District Court of Guam

17
18
19
20 RECEIVED
21 MAY 07 2008
22 DISTRICT COURT OF GUAM
23 HAGATNA, GUAM
24
25
26
27
28

1 TO: Department of Revenue & Taxation
2 Attn.: Artemio B. Ilagan, Director
3 P.O. Box 23607
4 GMF, Guam 96921

5 Please read the following instructions regarding the steps you must take to comply with
6 this Writ. For additional information, you may want to contact your attorney or the attorney for
7 the United States identified in Paragraph 5.

8 **INSTRUCTIONS TO THE GARNISHEE**
9

10 1. The name, last known address and Social Security Number of the person who is
11 the defendant in this action and whose property is subject to this Writ is:

12 MICHAEL CORY BRILES
13 Santa Rita, Guam 96928
14 SSN XXX-XX-4541

15 2. This Writ has been issued at the request of the United States of America to
16 enforce the collection of a criminal judgment entered in favor of the United States against the
17 defendant. The amount of the judgment as of April 29, 2008 is \$785.00.

18 3. If you have in your custody, control or possession any property or money of the
19 defendant, including wages, salary or commissions, or if you obtain custody, control or
20 possession of such property while this Writ is in effect, you must immediately withhold the
21 property from the defendant and retain it in your possession until you receive instructions from
22 the Court which will tell you what to do with the property and which will notify you when this
23 Writ is no longer in effect. The United States requests that the sum of 25% of the defendant's
24 monthly non-exempt disposable earnings be withheld from the defendant's earnings.

25 4. You are required to answer this Writ within 10 days after the service of the Writ
26 upon you. YOU MUST ANSWER THE WRIT EVEN IF YOU DO NOT HAVE IN YOUR
27 CUSTODY, CONTROL OR POSSESSION ANY PROPERTY OF THE DEFENDANT. Your
28 Answer must state, under oath, the following information:

- 1 a. whether you have custody, control or possession of
2 money or earnings of the defendant;
3 b. a description of the money or earnings and amount;
4 c. a description of any other garnishments, suggestions
5 or levies to which the earnings are subject and the
6 extent to which any remaining earnings are exempt
7 from garnishment, suggestion or levy;
8 d. the amount of any earnings you anticipate owing the
9 defendant in the future and the date on which
10 payment will be made; and
11 e. a description of any earnings you anticipate will
12 come into your custody, control or possession and
13 the dates on which such custody, control, or
14 possession will occur.

15 5. After you complete the answer under oath, you must mail or deliver an answer
16 bearing the original signature plus one copy of the person preparing the answer to:

17 District Court of Guam
18 4th Floor, U.S. Courthouse
19 530 West Soledad Avenue
Hagåtña, Guam 96910

20 At the same time you mail or deliver the answer to the Clerk, you must also mail or
21 deliver copies of the answer to:

22 Mikel W. Schwab
23 Assistant U.S. Attorney
24 Jessica F. Cruz
25 Assistant U.S. Attorney
26 U.S. Attorney' Office
Districts of Guam and the NMI
Attn: Financial Litigation Unit
Sirena Plaza, Suite 500
108 Hernan Cortez Avenue
Hagåtña, Guam 96910

27 Michael Cory Briles
28 Santa Rita, Guam 96928

1 6. If you have any questions, you should contact your attorney. You may also
2 contact a representative of the United States at the following address and telephone number:

3 Marie Chenery
4 Financial Litigation Unit
5 Sirena Plaza, Suite 500
6 108 Hernan Cortez Avenue
7 Hagåtña, Guam 96910
8 TEL: (671) 472-7332, ext 122
9 FAX: (671) 472-7215

10 7. IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN
11 ACCORDANCE WITH THE WRIT, THE UNITED STATES MAY PETITION THE COURT
12 FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO ANSWER
13 THIS WRIT AND TO SO WITHHOLD PROPERTY BEFORE THE APPEARANCE DATE.

14 IF YOU FAIL TO APPEAR, OR YOU APPEAR AND FAIL TO SHOW GOOD
15 CAUSE WHY YOU FAILED TO COMPLY WITH THIS WRIT, THE COURT WILL ENTER
16 JUDGMENT AGAINST YOU FOR THE VALUE OF THE DEBTOR'S NONEXEMPT
17 INTEREST IN SUCH PROPERTY (INCLUDING NONEXEMPT DISPOSABLE EARNINGS).

18 THE COURT MAY ALSO AWARD A REASONABLE ATTORNEY'S FEE TO
19 THE UNITED STATES AND AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN
20 THE TIME SPECIFIED HEREIN AND IF THE UNITED STATE FILES A PETITION
21 REQUIRING YOU TO APPEAR.
22
23
24
25
26
27
28

CLAIM FOR EXEMPTION FORM
EXEMPTIONS UNDER FEDERAL LAW (18 U.S.C. § 3613)

NOTE: 18 U.S.C. § 3613(a), the federal statute governing liens arising from criminal fines and restitution obligations, generally incorporates the exemptions available to individual taxpayers under the Internal Revenue Service Code.

I claim that the exemption(s) from enforcement which are checked below apply in this case:

- _____ 1. Wearing apparel and school books.--Such items of wearing apparel and such school books as are necessary for the debtor or for members of his family.
- _____ 2. Fuel, provisions, furniture, and personal effects.--So much of the fuel, provisions, furniture, and personal effects in the Debtor's household, and of the arms for personal use, livestock, and poultry of the debtor, as does not exceed **\$6,250** in value.
- _____ 3. Books and tools of a trade, business, or profession.--So many of the books, and tools necessary for the trade, business, or profession of the debtor as do not exceed in the aggregate **\$3,125** in value.
- _____ 4. Unemployment benefits.--Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.
- _____ 5. Undelivered mail.--Mail, addressed to any person, which has not been delivered to the addressee.
- _____ 6. Certain annuity and pension payments.--Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 1562), and annuities based on retired or retainer pay under Chapter 73 of Title 10 of United States Code.
- _____ 7. Workmen's Compensation.--Any amount payable with respect to compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.
- _____ 8. Judgments for support of minor children.--If the debtor is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.
- _____ 9. Certain service-connected disability payments.-- Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of Title 38, United States Code) disability benefit under--(A) subchapter II, III, IV, V, or VI of Chapter 11 of such Title 38 or (B) Chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such Title 38.
- _____ 10. Assistance under Job Training Partnership Act.
--Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

11. Minimum exemptions for wages, salary and other income. The exemptions under 26 U.S.C. § 6334(a)(9) do not apply in criminal cases. The exceptions under the Consumer Credit Protection Act, 15 U.S.C. § 1673, for disposable earnings, automatically apply and do not need to be claimed. The aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed (1) 25 % of his disposable earnings for that week, or (2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage in effect at the time the earnings are payable, whichever is less.

The statements made in this claim of exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct.

I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

() or telephonically at ()
Address Phone No.

Debtor's printed or typed name

Signature of debtor Date